K12 Title IX Coordinator and Investigator Training

August 20, 2025

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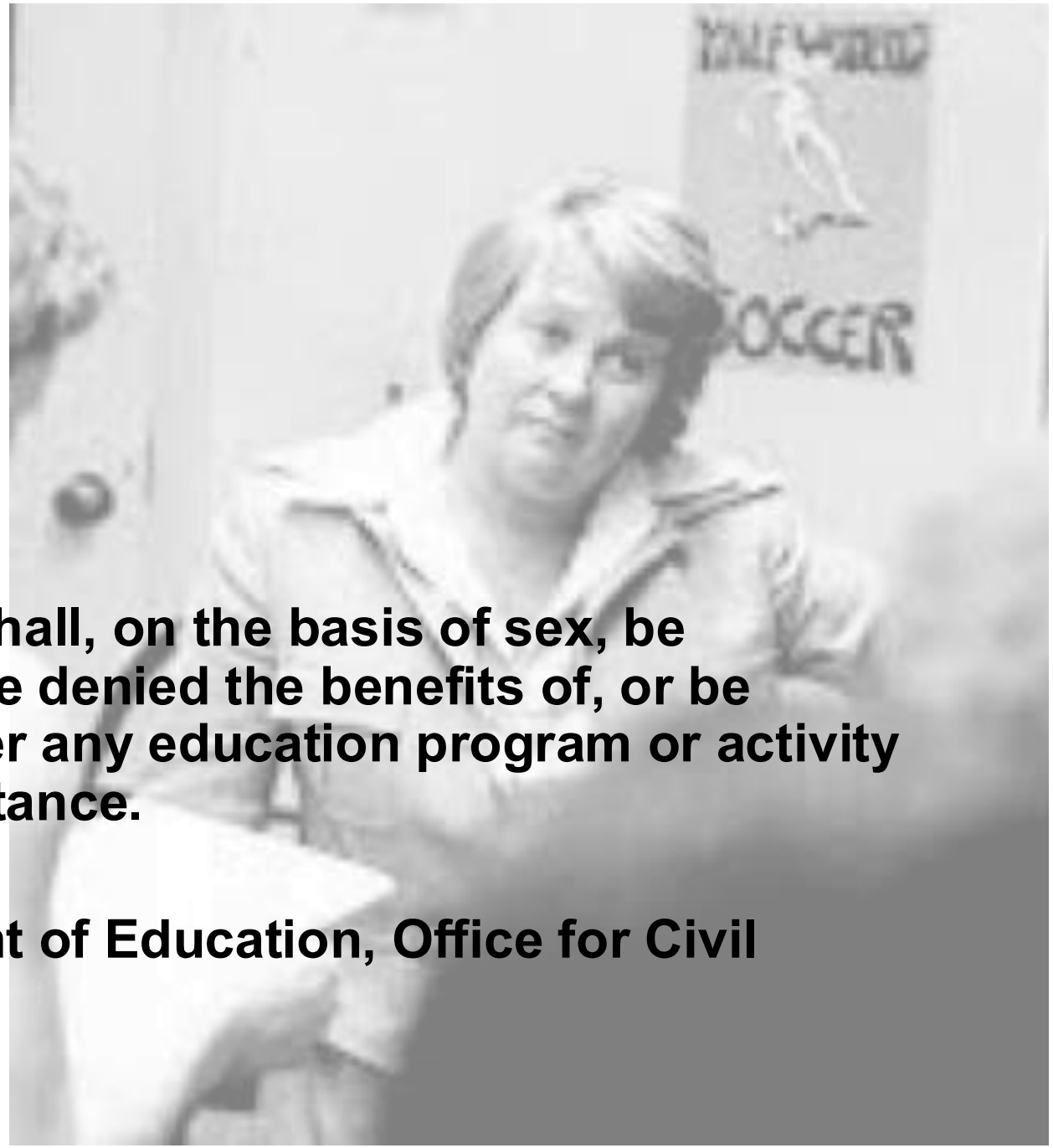
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Agenda

- Title IX Law and Regulations
  - Title IX Sexual Harassment under 2020 Title IX Regulations
- Title IX Roles and Parties
- Title IX Coordinator's Role and Responsibilities
  - Overall compliance
  - Outreach to Complainants
  - Overseeing the Title IX Investigation Process
- Title IX Investigation

Title IX Law and Regulations

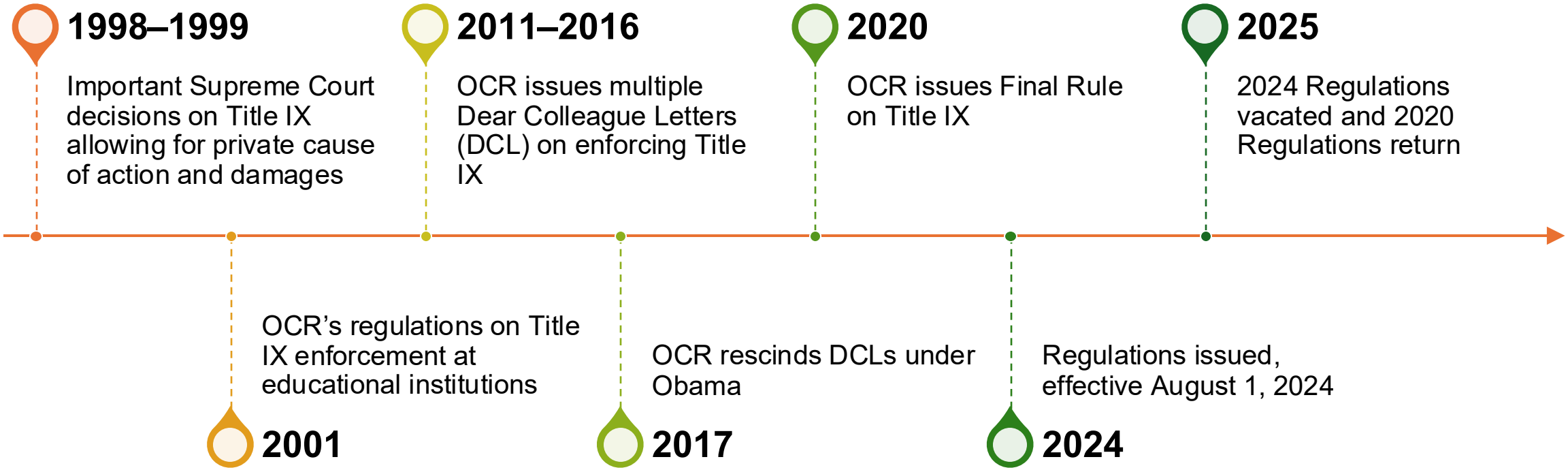




Title IX Law

- No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.

- Enforced through the Department of Education, Office for Civil Rights (OCR).


1998–1999
Important Supreme Court decisions on Title IX allowing for private cause of action and damages
2001
OCR's regulations on Title IX enforcement at educational institutions
2011–2016
OCR issues multiple Dear Colleague Letters (DCL) on enforcing Title IX
2017
OCR rescinds DCLs under Obama
2020
OCR issues Final Rule on Title IX
2024
Regulations issued, effective August 1, 2024
2025
2024 Regulations vacated and 2020 Regulations return

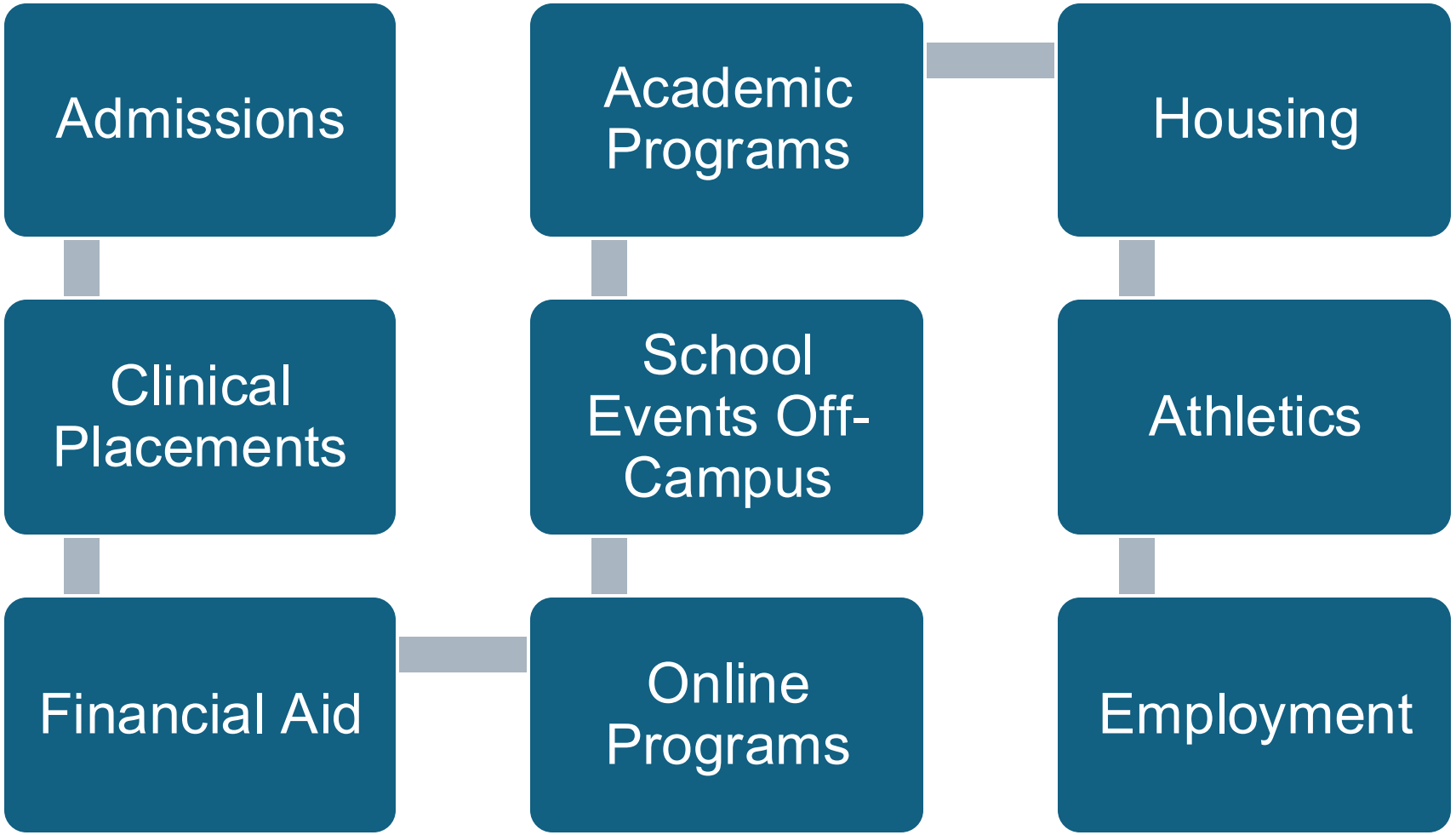
Title IX Covers and Includes

- Prohibition of Sex Discrimination
- Sexual Harassment
- Athletics
- Employment
- Pregnant Students
- Recruitment, Admission, Programs



Title IX

- Prohibits sex discrimination in educational programs and activities.



Legal Obligation

Educational institutions must respond in a manner that is not **deliberately indifferent** when it has actual knowledge of sexual harassment occurring in the institution's education program or activity against a person in the United States.

Failure to respond to a complaint following the Title IX process could be evidence of deliberate indifference.

TIXGP: Jurisdiction Defined

Occurring in the institution's education program or activity

Locations, events, or circumstances over which the recipient exercised substantial control over both the respondent and the context in which the sexual harassment occurs, and also includes any building owned or controlled by a student organization that is officially recognized by a postsecondary institution.

Off-campus activities covered if one (1) of three (3) requirements are met:

1. The off-campus incident occurs as part of the school's operations;
2. The school exercised substantial control over the respondent and the context of alleged sexual harassment that occurred; or
3. *The incident of sexual harassment occurs at an off-campus building owned or controlled by a student organization officially recognized by a college.*

Against a person in the United States.

Reporting Obligations of K12 Employees

Non-Confidential Employees

All employees, except Confidential Employees, have an obligation to report to Title IX Coordinator upon notice about Title IX complaint

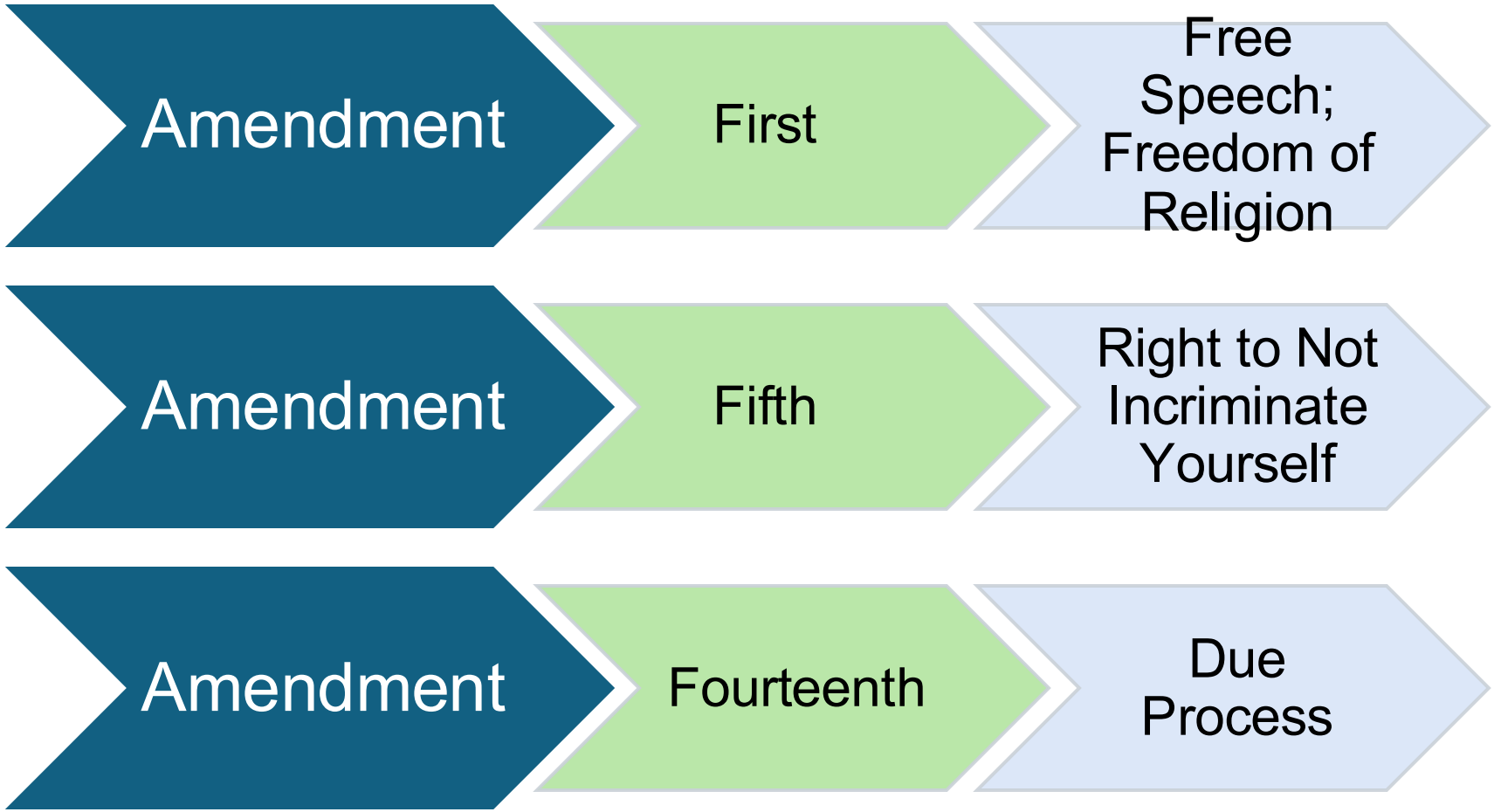
Confidential Employees

Mental Health professionals with a license

No duty to report to Title IX Coordinator

Title IX Enforcement and Federal Constitutional Protections

Title IX process may not limit or restrict constitutional protections



Title IX
Sexual Harassment

2020 Final Rule on Title IX

Title IX Definition of Sexual Harassment

Quid pro quo

Hostile Environment

Sexual Assault

Dating Violence

Domestic Violence

Stalking

TIX Definition of Sex

- Title IX's definition of "sex" has evolved over the years.
- Recent executive and regulatory guidance has specifically excluded gender identity from this definition.
- Allegations of discrimination/harassment related to non-binary, transgender, and gender non-conforming students and employees are not covered under Title IX.

Quid Pro Quo Harassment

Defines conduct "on the basis of sex" and includes:

- Quid pro quo - An employee of the school conditioning the provision of an aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct.

Hostile Environment Harassment

- Hostile environment - Unwelcome conduct determined by a reasonable person to be so **severe, pervasive, and objectively offensive** that it effectively denies a person equal access to the school's education program or activity.

Specific Acts

- Sexual Assault
- Dating Violence
- Domestic Violence
- Stalking

Title IX Sexual Assault

Sexual assault meaning an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the FBI.

- Any sexual act directed against Complainant, forcibly, against Complainant's will, or without consent, including
  - Rape
    - Sodomy
    - Sexual Assault with an object
  - Criminal Sexual Contact (formerly Fondling)

- Offenses that do not involve force where the Complainant is incapable of giving consent, including statutory rape and incest.

Dating/Domestic Violence

Dating violence meaning violence committed by a person:

(1) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and

(2) Where the existence of such a relationship shall be determined based on a consideration of the following factors:

- The length of the relationship;
- The type of relationship; and
- The frequency of interaction between the persons involved in the relationship.

Domestic violence meaning felony or misdemeanor crimes committed by a person who:

(1) Is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction of the school, or a person similarly situated to a spouse of the victim;

(2) Is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;

(3) Shares a child in common with the victim; or

(4) Commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction.

Stalking

Stalking meaning engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

(1) Fear for the person's safety or the safety of others; or

(2) Suffer substantial emotional distress.

Title IX Prohibits Retaliation

- Prohibition against retaliation for any participant in the Title IX reporting and investigation process.

- Requires some level of school action.

Although retaliation is prohibited under the 2020 regulations, the 2020 grievance process does not include retaliation, leaving it up to a district as to which process will be used.

Title IX Roles and Parties

Title IX Roles

Administration of Claims

- Title IX Coordinator
- Title IX Investigator
- Title IX Decision-Maker
- Title IX Appeal Officer
- Title IX Informal Resolution Officer

Training is required for all of these administrators of Title IX matters.

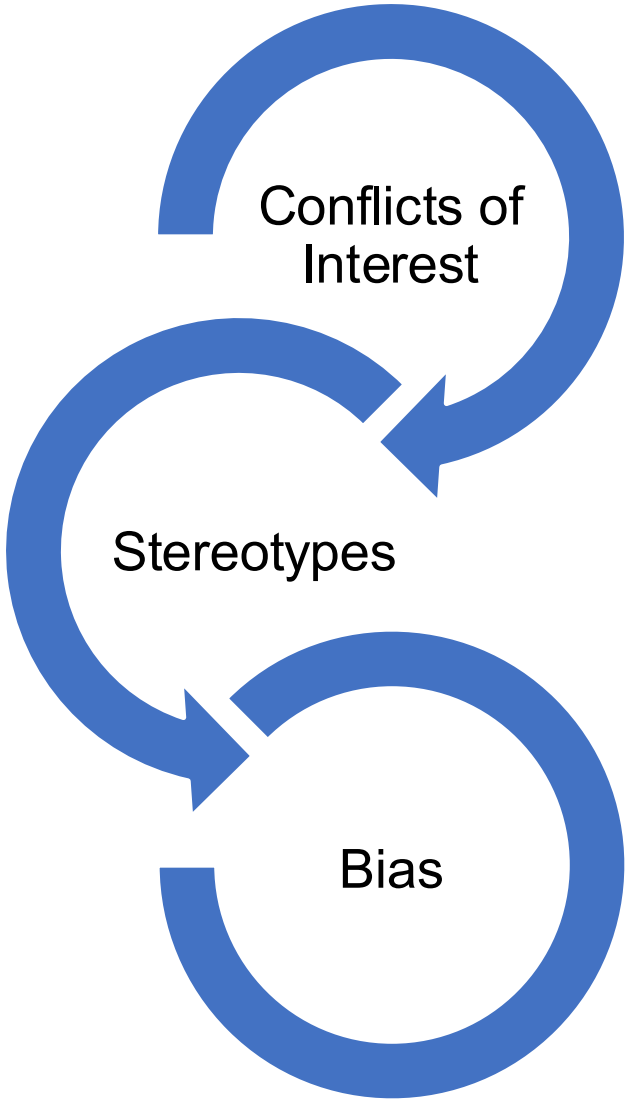
Parties

- Complainant – alleged victim/survivor
- Respondent – responds to the allegation(s)
- Advisor to parties

Other Participants

- Fact Witnesses
- Expert Witnesses

Title IX Grievance Process Must Avoid



Title IX Coordinator Role and Responsibilities

Title IX Coordinator's Duties



Monitor outcomes and identify patterns



Ensure adoption of Title IX policy and procedure



Access all relevant data (i.e., participation, budgets)



Information easily found and in designated publications



Permitted to conduct investigations



Permitted to oversee investi-gations



Avoiding conflicts of interest, including exclusion from serving as the Decision-Maker

Title IX Coordinator

Key Responsibilities

Overall Title IX compliance of programs/activities and report response

Central office for reports of sex discrimination and sexual harassment

Coordinate an effective response

- Respond to report
- Contact complainant
  - Supportive measures
  - Formal complaint process
- Manage the receipt of formal complaint and initiation of Title IX grievance process
- Determine if investigation is necessary in absence of formal complaint

Information about the Title IX Coordinator

Contact information for the Title IX Coordinator must be shared far & wide and include at minimum the following information:



Name of Title IX Coordinator



School address

(with office address)



Phone Number



Email Address

Information about Title IX Coordinator

- Must be shared with:
  - Students
  - Parents
  - Employees
  - Applicants for admission
  - Applicants for employment
  - Unions and/or parties to collective bargaining agreements

- Notify the above individuals of non-discrimination statement of the school
- Information must include notice of grievance procedure
- Information must promptly display contact information on the school's website (if applicable) and in each handbook or catalog made available to those persons

Title IX Coordinator

Overseeing the Title IX Grievance Process (TIXGP)

Overview of Title IX Grievance Process (TIXGP)

- Respond promptly in a manner that is not deliberately indifferent
- Due process and fundamentally fair procedures to adjudicate the allegations
- Upon notification, supportive measures offered
  - Emergency removal
- Offer of formal process (upon signing of Formal Complaint)
  - Complainant files or Title IX Coordinator may file
- Both parties receive notice of the allegations
- Both parties participate in investigation and can inspect information gathered
- Separate decision-maker(s)
- Completed in a prompt timeframe
- Retaliation prohibited - define the retaliation complaint process

TIXGP: How Matters Can Proceed



Formal Complaint Process



Title IX Initiated Investigation



Informal Resolution Process

Title IX Grievance Process

Initial Complaint Receipt

- Notice of sexual harassment
- Supportive measures
- Offer of formal complaint
- Emergency removal (optional)
- Notice of Allegations letter sent to parties
- Presumption that respondent did not violate policies

Investigation Process

- Interviews of parties and witnesses
- Gathering of other information
- Sharing of investigation file – 10-day review period
- Draft and final investigation report – 10-day review period

Decision-Maker Process

- Evaluate final investigation report
- Request input from parties
- Engage in necessary follow-up
- Issue outcome letter with policy violation and discipline decisions

After Report of Potential Sexual Harassment...

- All employees of K12 school districts have an obligation to report a matter of potential sexual harassment to the Title IX Coordinator
- Upon receipt of a report, the Title IX Coordinator has obligations for follow-up
- Outreach to complainant and intake meeting
- Offer of formal process
- Supportive measures
- Review of formal process
- Review allegations to determine if the matter is a true Title IX matter

TIXGP: Supportive Measures

Supportive measures are:

- **non-disciplinary, non-punitive** individualized services offered as appropriate, as reasonably available;
- without fee or charge to the complainant or the respondent
- are designed to **restore or preserve equal access** to the District's education programs or activities;
- without unreasonably burdening either party, including measures designed to protect the safety of all parties or the District's educational environment, or deter sexual harassment.

TIXGP: Emergency Removal Procedures

Step 1	Step 2	Step 3	Step 4	Step 5
Conduct a prompt and individualized safety and risk analysis.	Immediate threat to physical health or safety of any student or other individual arising from the allegations of sexual harassment is identified.	Evaluate the applicability of disability laws to the removal decision.	Consider the appropriateness of supportive measures in lieu of an emergency removal.	Provide the respondent with notice and an “immediate” opportunity to challenge the emergency removal.

TIXGP: Offer of Formal Process

- Complainant offered formal process
  - Offer should be made to parents of minors
- Investigation process should be explained to Complainant and parents
- Complainant must request an investigation
- Wishes of Complainant are to be respected

TIXGP: Receipt of Formal Complaint

Form completed

Verbal report

Phone call

Email

Other



TIXGP: No Formal Complaint Filed

Title IX Coordinator may decide to proceed with an investigation

-evidence of deliberate indifference if investigation not initiated

NOTE: Title IX Coordinator does not become Complainant

TIXGP: Dismissal - Mandatory and Permissive

Mandatory dismissal

- Would not constitute sexual harassment as defined in regulations
- Did not occur in education program or activity
- Did not occur against a person in the U.S.

Permissive dismissal

- Complainant notifies Title IX Coordinator in writing that Complainant would like to withdraw formal complaint or allegations
- Respondent is no longer enrolled or employed by school district
- Specific circumstances prevent the school district from gathering evidence sufficient to reach a determination

TIXGP: Notice of Allegations

- Detailed allegations against respondent
- Supportive measures offered to respondent
- No supportive measure can appear disciplinary or punitive in nature

TIXGP: Separate Investigator and Decision-Makers

Title IX Coordinator may serve as Investigator

Title IX Coordinator may NOT serve as Decision-Maker to determine policy violation and discipline, or as the Appeal Officer

Hearing panels permitted for K-12s but not required



TIXGP: Investigation

- Investigator gathers relevant and irrelevant information.
- All information must be shared with both parties.
- Parties have ability to review investigation report and outcome, provide comments/written questions, and provide answers and limited follow-up.

TIXGP: Burden of Proof



Preponderance of the evidence



Clear and convincing

TIXGP: Sharing of Investigation Information

- Both parties are given the FULL investigation file to review
- Documents shared or document inspection
  - 10 days for parties to respond to the information
- Investigator prepares a draft investigation report and shares it with both parties
  - 10 days for the parties to respond to the investigation report
- Investigator prepares final investigation report and shares it with both parties and the Decision-Maker

TIXGP: Decision-Maker

- Decision-Maker provides the parties with the opportunity to send questions or comments
  - 10 days to respond
- Decision-Maker must determine:
  - Policy violation
  - Discipline (if found in violation of policy)
- Decision-Maker issues an outcome letter to the parties

- In K-12, discipline decisions against students with disabilities may require a manifestation determination
  - A **Manifestation Determination** is a process, required by the Individuals With Disabilities Education Act (IDEA 2004), which is conducted when considering the exclusion of a student with a disability that constitutes a change of placement

TIXGP: Appeal Grounds

Procedural Review

Procedural irregularity in the Title IX grievance process that materially affected the outcome.

New Information

Newly discovered evidence that was not reasonably available at the time of the determination of responsibility or dismissal that could materially affect the outcome.

Conflict of Interest or Bias

Due to a bias or conflict of interest by the Title IX Coordinator, investigator, or decision-maker that materially affected the outcome.

TIXGP: Informal Resolution

- **Trained facilitators**
- Offered after formal complaint is filed
- Process must be detailed in writing
- Described to both parties
- Parties agree in writing
- Either party may end informal resolution before a formal agreement is accepted, and the matter returns to the Title IX investigation process
- **Never** available when complainant is student and respondent is employee
- Violation of an informal resolution agreement does not return you to investigation process

Title IX Investigator

Executing the Investigation: Title IX Grievance Process (TIXGP)

Important Investigation Fundamentals

1. Know what you are investigating
2. Know the process you are following
3. Document each step of the process
4. Make reasoned decisions
5. Don’t let perfection get in the way of best investigative efforts
6. Conclude the investigation properly in line with your responsibilities under applicable policy/process

Initial Review

- Formal complaint
- Notice to both parties – required?
- Supportive measures
- Timelines
- Parties (and parents) understand the process
- Other complaints?
  - Criminal matters
  - Similar complaints – consolidation
- Concurrent or parallel investigations

Organizing Your Investigation

Gather	Determine	Organize
Gather what you can	Determine what else you need	Organize the interviews • Key element in most sexual harassment investigations • Strategy as to who and when interviews are taken • Follow-up interviews may be necessary

Gathering Documents and Other Evidence

- Emails, texts, photos, screenshots, video
- Legal implications
  - Child Pornography laws are broad
  - Differing levels of enforcement
- Support or contradict testimony
- Character evidence

Weighing and Challenging Evidence



Authentication



Relevance



Credibility

Evidentiary Review

- RELEVANCE – Applying to the matter in question; affording something to the purpose (Black's Law Dictionary)
- NOT permitted:
  - Sexual history of Complainant (see Rape Shield exception)
  - Privileged communications
  - Medical documentation
- Not repetitive
- Title IX requires the sharing of investigation materials that are "directly related" to the allegations

Credibility

- In Title IX investigations, the Decision-Maker has ultimate responsibility for credibility determinations and may explore credibility issues with parties after your investigation report is complete
- However, in the course of an investigation, Investigators are gathering important information that may impact credibility determinations, including:
  - Corroboration
  - Feasibility
  - Motivation for truthfulness/untruthfulness
  - Consistency
  - Reviewed/coached testimony

Credibility Considerations

1. Inherent plausibility
2. Motive to lie (based on the existence of a bias, interest, or other motive)
3. Corroboration
4. Extent a witness was able to perceive, recollect, or communicate about the matter
5. History of honesty/dishonesty
6. Habit/consistency
7. Inconsistent statements
8. Manner of testimony
9. Demeanor

https://calcivilrights.ca.gov/wp-content/uploads/sites/32/2017/06/DFEH-Workplace-Harassment-Guide.pdf

Keep in Mind: At the Conclusion of an Investigation

- After the investigation is complete, but prior to issuing a draft report, the parties are given access to the full investigation file
- Parties are invited to provide comments about the extent of the investigation file
- Investigation file should include information upon which the Investigator will rely
- 10 days to inspect and submit comments
- Investigator reviews and prepares a draft report

TIX Investigator: Sharing of Investigation Information TIMING

- Both parties are given the FULL investigation file to review
  - Documents shared or document inspection10 days for parties to respond to the information
- Outreach to the Parties releasing the file
- Requesting input/questions from the parties within 10 days
- Review any requests and determine if any additional investigation is necessary
  - Investigator discretion

Writing the Draft and Final Report

Investigation Report



Convey relevant information about the allegations to the parties and their advisors.



The Department of Education takes no position on the elements required in the report beyond what is required by final regulations.



The investigative report must fairly summarize relevant evidence.

Organizing the Report

- Covering required categories
- Providing the relevant information
- Including applicable policy provisions
- Staying within the parameters of the investigation report (as set forth in policy)

- 20-20 Hindsight

Investigation Report Sections

- Allegations
- Applicable Policies
- Procedural History
- Interview Summaries
- Factual Findings/Recommended Factual Findings *(might be allowed/required, check policy)*
- Recommended Findings of Policy Violation *(might be allowed/required, check policy)*

Title IX Investigator Required Information Sharing

- Before investigation report issued, all evidence shared
- Opportunity to question and provide feedback
- Draft investigation report issued and shared
- Opportunity to question and provide feedback on investigation report
- Final investigation report issued

TIXGP – Investigation Process Ends with Transfer to Decision-Maker Process

TIXGP: Decision-Maker

- Decision-Maker provides the parties with the opportunity to send questions or comments
  - 10 days to respond
- Decision-Maker must determine:
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TIXGP: Investigator in Decision-Maker Process and Beyond

- Parties may submit questions to Decision-Maker for Investigator.
- Decision-Maker may have independent questions for Investigator.
- Revisions and reviews to the report may be necessary, although unlikely.
- Future challenges to the investigation could be filed through DoE, California Department of Education, and/or litigation.

- REMEMBER: Keep adequate records and share all information with Title IX Coordinator for record-keeping purposes.

Questions?

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